

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
THOMAS M. MOROUGHAN,

Plaintiff,

12-CV-512  
(JFB) (AKT)

**VERIFIED ANSWER**

-against-

THE COUNTY OF SUFFOLK, SUFFOLK  
COUNTY POLICE DEPARTMENT, SUFFOLK  
DETECTIVES TAVARES, CHARLES E.  
LESTER III, DETECTIVE/SGT. WILLIAM J.  
LAMB, SUFFOLK POLICE OFFICER MEANY  
AND SUFFOLK JOHN DOES 1-10, THE COUNTY  
OF NASSAU, NASSAU COUNTY POLICE  
DEPARTMENT, NASSAU POLICE OFFICERS  
ANTHONY D. DILEONARDO, EDWARD BIENZ  
AND JOHN DOES 11-20,

Defendants.  
-----X

The defendants, COUNTY OF NASSAU, and NASSAU COUNTY POLICE  
OFFICER EDWARD BIENZ, appearing herein by their attorney, JOHN CIAMPOLI, County  
Attorney of Nassau County, MICHAEL J. FERGUSON, Deputy County Attorney, for its  
answer to the complaint herein, sets forth upon information and belief, as follows:

**FIRST:** The allegations contained in paragraphs numbered 1, 2, 3 and 4 of the  
Complaint characterize the legal action being brought and purport to invoke the jurisdiction of  
the Court pursuant to the enumerated statutes and, as such, the defendants make no answer  
save to demand strict proof thereof and to deny any conduct giving rise to any cause of action  
thereunder.

**SECOND:** Denies knowledge or information thereof sufficient to form a belief  
as to each and every allegation contained in paragraphs numbered 5, 6, 7, 8, 9, 10, 11, 17,  
18, 19, 20, 21, 22, 23, 24, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45,

46, 47, 48 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 96, 104, 114, 121, 122, 123, 133, 134, 135, 136, 137, 138, 140, 143 and 148 of the complaint.

**THIRD:** Denies each and every allegation contained in paragraph numbered 12 of the complaint in the form alleged except admit Nassau County is a County within the State of New York.

**FOURTH:** Denies each and every allegation contained in paragraph numbered 14 of the complaint in the form alleged except admit that Nassau County Police Department is an administrative agency of the County of Nassau.

**FIFTH:** Denies each and every allegation contained in paragraph numbered 15 of the complaint in the form alleged except admit Police Officer Anthony DiLeonardo is employed as a police officer with the County of Nassau.

**SIXTH:** Denies each and every allegation contained in paragraph numbered 16 of the complaint in the form alleged except admit Police Officer Edward Bienz is employed as a police officer with the County of Nassau.

**SEVENTH:** Denies each and every allegation contained in paragraphs numbered 25, 27, 93, 94, 95, 97, 98, 99, 100, 101, 102, 103, 106, 108, 110, second numbered 110, 112, 116, 118, 120, 125, 126, 128 129, 130, 131, 132, 141, 144 and 146 of the complaint.

**EIGHTH:** Repeats, reiterates and realleges each and every denial hereinabove set forth with respect to the paragraphs numbered 105, 107, 109, 2<sup>nd</sup> numbered 109, 111, 113, 115, 117, 119, 124, 127, 139, 142, 145 and 147 of the complaint with the same force and effect as if fully set forth at length herein.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE:**

**NINTH:** The complaint fails to state a cause of action upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE:**

**TENTH:** That if the plaintiff sustained the damages as alleged in the complaint, such damages were sustained solely through and by virtue of the negligent conduct of the plaintiff without any negligence on the part of the defendant COUNTY OF NASSAU, its agents, servants or employees contributing thereto.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE:**

**ELEVENTH:** That the answering defendants at all times acted in good faith in that they reasonably believed that they were exercising and acting within their statutory and constitutional powers.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:**

**TWELFTH:** That in performing such duties and responsibilities, answering defendants are and were protected by qualified immunity.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:**

**THIRTEENTH:** That this action is barred by the doctrines of qualified and/or absolute governmental immunity for discretionary acts.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:**

**FOURTEENTH:** That the answering defendants, at all times complained of, acted reasonably and in good faith in the discharge of their official duties and responsibilities.

**WHEREFORE**, the defendant, COUNTY OF NASSAU demands judgment dismissing the complaint herein, together with the costs and disbursements of this action.

**JOHN CIAMPOLI**

County Attorney of Nassau County

By: 

MICHAEL J. FERGUSON

Attorney for County of Nassau

1 West Street

Mineola, New York 11501

(516) 571-3054